


**DEPARTMENT OF HUMAN RESOURCES  
SOCIAL SERVICES ADMINISTRATION  
311 W. SARATOGA STREET  
BALTIMORE, MD 21201**

**DATE:** September 1, 2014

**POLICY #:** SSA-CW # 15-1  
(Supersedes OASDI Memorandum Dated December 11, 2013)

**TO:** Directors, Local Departments of Social Services  
Assistant Directors, Services

**FROM:**  Deborah Ramelmeier, Acting Executive Director  
Social Services Administration

**RE:** Old Age, Survivors' and Disability Insurance (OASDI), Social Security Disability Insurance (Title II) and Supplemental Security Income (Title XVI) benefits applied for on behalf of children in Out-of-Home Placement

**PROGRAMS AFFECTED:** Out-of-Home Placement Services

**ORIGINATING OFFICE:** Out-of-Home Placement

**ACTION REQUIRED OF:** All Local Departments

**REQUIRED ACTION:** Implement Policy and Procedures

**ACTION DUE:** Immediately

**CONTACT PERSONS:** Jill Taylor, LCSW-C  
Program Manager, Out-of- Home Placement  
410-767-7695  
jill.taylor@maryland.gov

**PURPOSE:**

The purpose of this policy is to provide direction as to the implementation of the notification requirements of Local Departments of Social Services (LDSS) regarding Old Age, Survivor's and Disability Insurance (OASDI), Social Security Disability Insurance (Title II) and Supplemental Security Income (Title XVI) benefits applied for on behalf of children in care.

**BACKGROUND:**

On September 26, 2013, the Court of Appeals of Maryland released its decision in *In re: Ryan W.*, a Child in Need of Assistance case in which a foster child challenged the use by the Baltimore City Department of Social Services (BCDSS) of his OASDI benefits to reimburse itself for the current costs of his care.

Local departments of social services routinely apply for social security benefits on behalf of children in their care, become the representative payee for those benefits, and use those benefits to offset the cost of foster care, as outlined in COMAR 07.02.11.29(K) and (L). Ryan W. disputed the local departments' authority to use the funds to reimburse itself and requested that the department return the funds. The argument was the Department should have either saved his OASDI benefits payments or spent the benefit payments on items or services other than the cost of his care. Ryan W. also challenged BCDSS failure to notify him that it had applied to receive OASDI benefits on his behalf as his representative payee.

The court upheld the legitimacy of COMAR 07.02.11.29; the Department's authority to use social security benefits to offset the cost of care. As to the Department's failure of notification, the court agreed with Ryan W. and imposed two new requirements on local departments so that the child's Child In Need of Assistance (CINA) attorney can, if appropriate, pursue any applicable federal administrative and/or judicial review procedures concerning the determinations made by the Social Security Administration with regard to the appointment of a representative payee and the payee's use of the funds.

**DEFINITIONS:**

**"Old Age, Survivor's and Disability Insurance"** (otherwise known as OASDI) is a comprehensive federal benefits program that provides monthly benefits intended to replace, in part, the loss of income as a result of retirement, disability, or death.

**"Social Security Disability Insurance"** (otherwise known as SSDI, Social Security Disability, or Disability Insurance Benefits (DIB)) falls under Title II of the Social Security Act. SSDI provides disability benefits to individuals who have earned enough work credits for qualify.

**"Supplemental Security Income"** (otherwise known SSI) falls under Title XVI of the Social Security Act. SSI provides disability benefits to individuals who have never worked, or whose work history has

not earned them the credits needed to qualify for Social Security Disability Insurance (SSDI), can apply for disability benefits under the SSI program.

**ACTION:**

**Steps to complete when applying for benefits on behalf of children in care:**

The LDSS shall adhere to the following steps when applying for OASDI, Title II and Title XVI benefits for children in their care:

- The LDSS staff/caseworker must immediately notify a child's CINA attorney at the time they make an application to be appointed as a child's representative payee for receipt of OASDI, Title II and Title XVI benefits. It is the LDSS staff/caseworker responsibility to complete the *Notification To Child's Counsel For OASDI, Title II and Title XVI Benefits* form and scan the document into MD CHESSIE file cabinet.
- For all cases that the LDSS has been named the representative payee, LDSS must notify the CINA attorney of the date of appointment as representative payee, and the amount and date of the receipt of the benefits for the period since the last permanency planning hearing. The most efficient means of providing this information will be to include it in the court reports prepared for each permanency planning hearing in a separate section named OASDI, Title II and Title XVI Benefits for Children in Care. The LDSS will include in the court report: the date the LDSS became representative payee, if applicable any lump sum payments/amount and the monthly amount received by the LDSS. **All discussions with respect to OASDI, Title II and Title XVI benefits and must be documented in MD CHESSIE on a contact note.**



## NOTIFICATION TO CHILD'S COUNSEL FOR OASDI, TITLE II AND TITLE XVI BENEFITS

<b>1.</b>	<b>Please print clearly</b>	<p>Child's Name: _____ Date of Birth: _____</p> <p>LDSS Address: _____</p> <p>City: _____ State: _____ Zip Code: _____ Phone Number (    ) _____</p>
<b>2.</b>	<b>Please print clearly</b>	<p>Child's Counsel Name: _____</p> <p>Address: _____</p> <p>City: _____ State: _____ Zip Code: _____ Phone Number (    ) _____</p> <p>Law firm name: _____</p>
<b>3.</b>	<b>Benefit Applied for (check all that apply)</b>	<p><input type="checkbox"/> Old Age</p> <p><input type="checkbox"/> Survivors    Mother <input type="checkbox"/> Father <input type="checkbox"/></p> <p><input type="checkbox"/> Disability Insurance</p> <p><input type="checkbox"/> Social Security Disability Insurance (Title II)</p> <p><input type="checkbox"/> Supplemental Security Income (Title XVI)</p> <p>Date applied to be payee: _____ Date Counsel Notified: _____</p> <p>Local Department of Social Services: _____</p>
<p><b>4. I understand that the information I have provided above is accurate and supporting documentation may be required.</b></p>		
<p>_____ Local Department of Social Services Representative Signature</p>		<p>_____ Date</p>